

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF LOUISIANA  
MONROE DIVISION**

**UNITED STATES OF AMERICA**

**CRIMINAL ACTION NO. 10-00115**

**VERSUS**

**JUDGE ROBERT G. JAMES**

**BEATO REYNOSO**

**MAG. JUDGE KAREN L. HAYES**

**RULING**

Pending before the Court is a Motion for Reconsideration of Sentence Imposed [Doc. No. 73] filed by Defendant Beato Reynoso (“Reynoso”). Reynoso moves the Court to “reconsider the sentence imposed on him,” citing errors in the calculation of his criminal history points. Reynoso’s pleading is properly construed as a petition for writ of *habeas corpus*, filed pursuant to 28 U.S.C. § 2255.

On April 10, 2012, Reynoso filed a § 2255 petition. [Doc. No. 34]. That petition was dismissed by the Court. [Doc. Nos. 61 & 62]. Although Reynoso appealed, this Court denied a certificate of appealability. On June 18, 2013, the United States Court of Appeals for the Fifth Circuit dismissed Reynoso’s appeal for failing to timely comply with the requirements for a certificate of appealability. [Doc. No. 72].

On August 28, 2013, Reynoso filed the instant motion. This motion, attacking the validity of his sentence, is appropriately construed as a second and successive § 2255 petition. Therefore, the motion must be dismissed for failure to obtain leave for filing from the Fifth Circuit. A separate

judgment dismissing Reynoso's motion, as construed, will issue.

MONROE, LOUISIANA, this 29<sup>th</sup> day of August, 2013.

  
ROBERT G. JAMES  
UNITED STATES DISTRICT JUDGE